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8 IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

9
10 SUE LAMBERT PARKER,

11 Plaintiff,

12 vs.

13 UNITED STATES OF AMERICA,
INDIAN HEALTH SERVICE, LAURIE A.
GERHARD, and JOHN DOE 1-7,

14 Defendants.

15 Case No.

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28 **COMPLAINT and DEMAND FOR TRIAL
BY JURY**

Pursuant to Federal Rule of Civil Procedure 15(d), Plaintiff Sue Lambert Parker ("Plaintiff") files this Complaint, which pleads claims under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§1346, 2671 *et seq.*, against the United State of America. Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. The Court has subject matter jurisdiction over Plaintiff's FTCA claims under 28 U.S.C. §1331 and §1346(b).
2. The Court has personal jurisdiction over the United States of America.
3. Venue is proper in the Great Falls Division of the District of Montana pursuant to 28 U.S.C. §1391(e) and §1402(b) because the events which give rise to this action occurred within this

district and Plaintiff resides within this district.

PARTIES

4. Plaintiff Sue Lambert Parker is, and at all times relevant was, a citizen of Montana working and residing in Roosevelt County.

5. Defendant United States of America is sued for Plaintiff's personal injuries caused by the negligent or wrongful acts or omissions of its employees. Those employees were acting within the scope of their office or employment under circumstances where the United States, if a private person, would be liable to Plaintiff in accordance with the laws of the State of Montana. *See* 28 U.S.C. § 1346(b).

FACTUAL ALLEGATIONS

6. On or about September 29, 2009, Plaintiff was walking across the Poplar Indian Health Services parking lot in Poplar, Roosevelt County, Montana.

7. At the same time, Laurie Gerhard, an employee of Defendant, acting within the scope of her employment, failed to defrost the windshield of a green Chevrolet Venture van VIN No. U03E64D259370 owned by Defendant, before she drove it across the same parking lot.

8. As a pedestrian Plaintiff had the right of way.

9. The Laurie Gerhard, failed to yield to Plaintiff's right of way, due to windshield of the van being obstructed.

10. As a result of Laurie Gerhard's failure defrost the van's windshield, the van collided with Plaintiff.

11. As a result of the collision, Plaintiff sustained bodily injury.

12. Because of these injuries, Plaintiff has suffered pain, has incurred and will continue to

incur expenses for medical treatment, has and will continue to lose income, and has and will continue to be deprived of her ability to engage in various activities for life. Plaintiff's total damages will be determined at trial.

13. On December 22nd, 2009, Fitzgerald Law Firm, on behalf of the Plaintiff, filed an administrative claim under the Federal Tort Claims Act, comprised of a completed Standard Form 95 and supporting materials, to the appropriate federal agencies, including the Department of Health and Human Services (“DPHHS”). *See, Ex. A (Tort Claim).* Plaintiff claimed \$2,000,000.00 in damages. Because the earliest tortious action described in Plaintiff’s administrative claim occurred on September 28th, 2009, her claim was timely filed. *See 28 U.S.C.A. § 2401(b)* (two year statute of limitations for filing of administrative tort claims).

14. In a letter dated August 30th, 2012, over three years after the original complaint in this case was filed, DPHHS acknowledged the claim and responded with an offer of \$6,301.67. *See Ex. B* (DPHHS letter).

WHEREFORE, Plaintiff Demands judgment against the Defendant in an amount to be determined at trial, as well as costs of suit and any such further relief as the Court deems just.

PLAINTIFF DEMANDS A TRIAL BY JURY

DATED this 10 day of October, 2017.

Helland Law Firm, PLLC
Attorneys for Plaintiff
Peter L. Helland
Peter L. Helland